IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

STATE OF UTAH, *Plaintiff*,

v.

UNITED STATES OF AMERICA, *Defendant*.

MEMORANDUM OF GREAT SALT LAKE MINERALS & CHEMICALS CORPORATION REGARDING STIPULATION BETWEEN UNITED STATES OF AMERICA AND STATE OF UTAH

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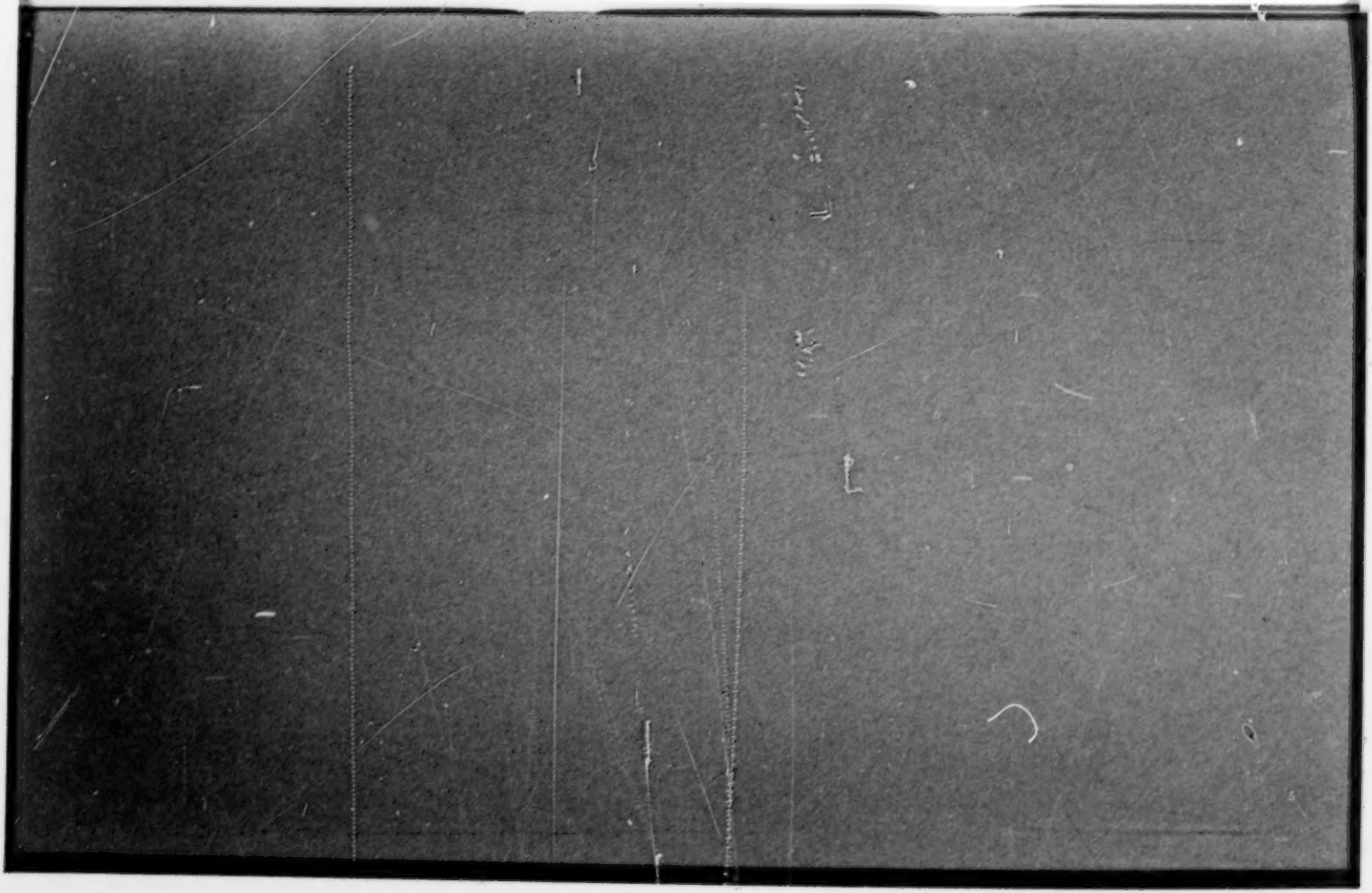

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The United States has claimed, in essence, that this is an *in rem* action to quiet title to the lands and minerals in controversy, and, therefore, any party claiming title therein is indispensable to this litigation. The State of Utah has asserted that the action is not as broad in scope as claimed by the United States, that the enabling legislation never intended it to be, and that no other party is indispensable. It also is of the opinion that if private upland fee owners, who were Utah citizens, were allowed to intervene as defendants, this Court would be ousted of jurisdiction.

In its original and supplemental motions to intervene in this litigation, Great Salt Lake Minerals & Chemicals Corporation (hereinafter called "GSL") asserted that the

Congress and the Utah Legislature intended that this action be initiated solely for the purpose of determining which of the two sovereigns had the paramount right, as between themselves, to the lands and minerals in controversy. It also was GSL's contention that this case could and must proceed to an adjudication of that question.

Upon the filing of motions to intervene by Morton International, Inc. and GSL, the State of Utah raised the question of whether the inclusion of these parties as indispensable parties, with the consequent necessity for joining similarly situated Utah citizens as defendants, would oust this Court of jurisdiction. The United States and the State of Utah differed on the answer to this question.

This difference appears to have been resolved by the subject Stipulation filed herein limiting and defining the issues to be decided between the sovereigns, thereby attempting to eliminate the indispensability problem. GSL has no objection to this approach, provided that, as between the sovereigns, there will be a final adjudication as to all their claims to the subject lands and minerals. Although GSL believes it was so intended, it is not entirely clear that the Stipulation accomplishes this.

Paragraph 1 of the Stipulation refers to lands, brines and minerals claimed to be owned and conveyed to the State of Utah by the United States on June 15, 1967. Paragraph 2 states that the United States is undecided at this time as to whether it will assert a claim to the submerged lands and the minerals in solution and is reserving the right to do so. If the foregoing is intended to mean that the United States may adjudicate these claims at any

time subsequent to a final disposition of all other issues in this case, then GSL objects to the Stipulation. A resolution must be had as to which of the two sovereigns, as between themselves, has the right to the subject lands and subject minerals. Anything short of this would be objectionable to GSL, and most certainly would be less than what the Congress and the Utah Legislature intended. It would leave the title questions at the Great Salt Lake unanswered for an indefinite period, leaving the situation as uncertain as it was prior to this action.

Notwithstanding its support of the Stipulation (subject to the foregoing qualifications) GSL still urges the Court to allow its intervention as a necessary and proper party pursuant to its original and supplemental motions filed herein. The reasons set forth in GSL's motions are no less supportable because of the subject Stipulation. Its substantial interests in this controversy support the granting of is intervention, and certainly GSL's presence would not create a jurisdictional obstacle or unduly delay or prejudice the adjudication of the rights of the original parties.

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April 16, 1968

CERTIFICATE OF SERVICE

I, GEORGE E. BOSS, Counsel for Great Salt Lake Minerals & Chemicals Corporation, applicant for Intervention herein, and a member of the Bar of this Court, hereby certify, in accordance with Rule 33 of the Rules of this Court, that five (5) copies of the foregoing Memorandum of Great Salt Lake Minerals & Chemicals Corporation Regarding Stipulation between United States of America and State of Utah were served by mail upon the Solicitor General of the United States of America, Department of Justice, Washington, D.C. 20530, Counsel for Defendant United States of America; L. M. McBride and Frank Wollaeger, of McBride, Baker, Wienke & Schlosser, 110 North Wacker Drive, Chicago, Illinois 60606, and Myer Feldman and Martin Jacobs, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, Counsel for Morton International, Inc.; and the Attorney General of the State of Utah, State Capitol Building, Salt Lake City, Utah 84114, Counsel for the State of Utah, this 16th day of April, 1968.

GEORGE E. BOSS

April 16, 1968